PART IV

Section 2-B

MYSORE ACTS AND ORDINANCES.

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 66 LGN 62, Bangalore, dated 13th August 1965.

Ordered that the Mysore Irrigation Act, 1965, which received the assent of the President on the Twenty-third day of July 1965, be published as Mysore Act No. 16 of 1965 in the *Mysore Gazette*, for general information.

MYSORE ACT No. 16 OF 1965

(*First published in the* Mysore Gazette *on the Nineteenth Day of August, 1965.*)

THE MYSORE IRRIGATION ACT, 1965.

(*Received the assent of the President on the Twenty-third Day of July, 1965*).

An Act to make provision relating to the construction, maintenance and regulation of irrigation works, the supply of water therefrom, obtaining labour in emergencies and certain other matters pertaining to irrigation in the State of Mysore.

WHEREAS it is expedient to make provision relating to the construction, maintenance and regulation of irrigation works, the supply of water therefrom, obtaining labour in emergencies and certain other matters pertaining to irrigation in the State of Mysore;

BE it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title and commencement and application.—(1) This Act may be called the Mysore Irrigation Act, 1965.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.—In this Act, unless the context otherwise requires—

(*a*) "Canal Officer" means any officer appointed or invested with powers of a Canal Officer under section 3;

(*b*) "Chief Engineer" means an officer appointed by the State Government as Chief Engineer for Irrigation and includes any officer appointed to perform the functions of a Chief Engineer under this Act;

(*c*) "Deputy Commissioner" includes any officer not below the rank of an Assistant Commissioner, appointed by the State Government to exercise all or any of the powers of a Deputy Commissioner under this Act;

(*d*) "drainage work" includes,—

(i) channels, either natural or artificial, for the discharge of waste or surplus water, and all works connected with or auxiliary to such channels;

(ii) escape channels from an irrigation work, dams, weirs, embankments, sluices, groynes and other works connected therewith, but does not include works for the removal of sewage;

(iii) any work in connection with a system of reclamation made or improved by Government for the purpose of drainage of the country; and

(iv) all works for the protection of lands from inundation or erosion, constructed or maintained either wholly or in part by the State Government;

(*e*) "field-channel" means any water course, hikkal or pipe having a capacity not exceeding one cubic foot per second, which is supplied with water from an irrigation work, and includes all subsidiary works belonging to such field-channel, except the sluice or outlet through which water is supplied to such channel or pipe;

(*f*) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation or which may be declared by the State Government to be maintained in connection with any such system, and includes all groynes, spurs, dams and other protective works connected with such embankments;

(*g*) "Irrigation Officer" means any officer appointed as an Irrigation Officer or invested with the powers of an Irrigation Officer under section 3 ;

(*h*) "irrigation work" includes,—

(i) all reservoirs, tanks, wells, anicuts, bandharas, ponds, spring ponds, canals, field-channels, thalapariges, pipes, channels, aqueduets and sluices constructed, maintained or controlled wholly or partly by Government for the supply, conveyance or storage of water;

(ii) all works, embankments, structures, supply and escape channels, connected with such reservoirs, tanks, anicuts, bandharas, channels, canals, pipes, sluices, and all roads constructed for facilitating the construction or maintenance of such reservoirs, tanks, anicuts, bandharas, canals, channels, pipes and sluices ;

(iii) all drainage works and flood embankments ;

(iv) any part of a river, stream, lake, natural collection of water or natural drainage channel to which the State Government may apply the provisions of section 5 or of which the water has been applied or used before the commencement of this Act for the purpose of any existing irrigation work ;

(v) all lands appropriated by the State Government for the purpose of such reservoirs, tanks, anicuts, bandharas, canals, channels, pipes, sluices and all buildings, machinery, fences, gates and other erections upon such lands;

(*i*) "land holder" or "holder" means the person in whom a right to hold the land is vested, whether solely on his own account or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with right of possession ;

(*j*) "notification" means a notification published in the official Gazette ;

(*k*) "occupier" means, in respect of any land, any person who has an interest in the land and cultivates the land himself or by his servants, or by hired labour, and includes a tenant;

(*l*) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under this Act shall attach jointly and severally to every person having such joint interest in the ownership;

(*m*) "patel" means such officer as the State Government may declare to be a patel for the purposes of this Act;

(*n*) "prescribed" means prescribed by rules made under this Act;

(*o*) "Tahsildar" includes any officer appointed by the State Government to exercise all or any of the powers of a Tahsildar under this Act.

3. Appointment of officers.—The State Government, or, subject to such conditions as may be prescribed, any officer of Government empowered in this behalf may by notification—

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties over such areas or such irrigation works under this Act, as the State Government or such officer may deem fit;

(*b*) invest any officer of Government in any Department or any other person with such powers and impose upon him such duties over such areas or such irrigation works under this Act, as the State Government or such officer may deem fit.

CHAPTER II.

CONSTRUCTION, CONTROL AND MAINTENANCE OF IRRIGATION WORKS.

4. Construction, control and maintenance of irrigation works only with consent of Government and subject to conditions.—(1) No person shall construct, control or maintain wholly or partly any reservoir, tank, anicut, bandhara, pond, spring pond, canal, field channel, talaparige, channel or aqueduct except with the previous sanction of the State Government or such other authority as may be authorised by the State Government in this behalf and subject to such conditions as the State Government or such authority may impose.

(2) Where the State Government is of the opinion that in the interests of proper irrigation from any irrigation work constructed or proposed to be constructed it is necessary to control the construction of wells in any area or areas, the State Government may by notification specify such area or areas; and thereupon no person shall within such area or areas construct any well except with the previous sanction of the State Government or other authority authorised by the State Government in this behalf, and subject to such conditions as the State Government or such authority may impose.

5. Notification to issue when water supply is to be applied for purposes of irrigation works.—(1) Whenever it appears expedient to the State Government or any officer generally or specially authorised by it in this behalf, that the water of any river or stream flowing in a natural channel or of any lake or any other natural collection of still water, should be applied or used by the State Government for the purpose of any existing or proposed irrigation work, the State Government or the authorised officer may, by notification, declare that the said water will be so applied or used after a day to be specified in the said notification, not being earlier than three months from the date thereof.

(2) At any time after the day specified under sub-section (1), the Irrigation Officer may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application

or use of the said water, and for such purpose, may take with him, or depute or employ such subordinates and other persons as he deems fit.

6. Entry for inquiry.—Whenever it shall be necessary to make any inquiry or examination in connection with a proposed irrigation work or with the maintenance of an existing irrigation work, the Irrigation Officer, or any person acting under the general or special order of such Irrigation Officer may—

(*a*) enter upon such land as he may think necessary for the purpose; and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do, if the State Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1894, to the effect that land in that locality is likely to be needed for a public purpose; and

(*c*) set up and maintain water-gauges and do all other things necessary for the purpose of such inquiry and examination.

7. Power to inspect and regulate supply.—The Irrigation Officer or any person acting under the general or special order of such Irrigation Officer, may enter upon any land, building or field-channel, for the purpose of inspecting or regulating the use of water supplied or of measuring the land, irrigated thereby or chargeable with a water rate, and of doing all things necessary for the proper regulation, maintenance and management of the irrigation work from which such water is supplied.

8. Power to enter for repairs and to prevent accidents.—In case of any accident or damage being apprehended or occurring to an irrigation work, the Irrigation Officer, or any person or persons acting under the general or special order of such Irrigation Officer, may enter upon any land adjacent to or in the neighbourhood of such irrigation work and may remove trees and other materials and execute all works which may be necessary for the purpose of preventing such accident or repairing any damage.

9. Notice to occupier.—Whenever an Irrigation Officer or any other person acting under his general or special order in this behalf,

proposes, under the provisions of section 6, 7 or 8, to enter into any building or enclosed court or garden attached to a dwelling house, which is not supplied with water from an irrigation work not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable written notice as the urgency of the case may allow.

10. Means of crossing canals to be provided and obstruction to drainage to be avoided.—Suitable means of crossing canals and channels shall be provided at such places as the State Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal or channel.

11. Government may prohibit obstructions of rivers, etc., within certain limits.—Whenever it appears to the State Government that injury to the public health, or public convenience, or to any irrigation work or to any land for which supply from an irrigation work is available, has arisen or may arise from the obstruction of any river, stream or natural drainage channel, the State Government may, by notification, prohibit within limits to be defined in such notification, or may, within such limits, order the removal or other modification of such obstruction; and thereupon so much of the said river, stream or natural drainage channel as is comprised within such limits, shall be deemed to be a drainage work as defined in section 2.

12. Irrigation Officer may issue order to person causing obstruction.—The Irrigation Officer may, after the publication of the notification under section 11, issue an order to any person causing or having control over any such obstruction to remove or modify the same within such period as may be specified in such order.

13. Irrigation Officer may cause obstruction to be removed.—If within the period specified under section 12 such person does not comply with the order, the Irrigation Officer may cause the obstruction to be removed or modified and such person shall be liable to pay the expense of such removal or modification; and if the person to whom the order was issued does not, when called upon, pay the expenses of

such removal or modification, such expenses shall be recoverable as an arrear of land revenue.

14. Construction of drainage works.—Whenever it appears to the State Government that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water or from erosion by a river is required for any land, the State Government may in its discretion cause a scheme for such work to be drawn up and carried into execution, and the person authorised by the State Government to draw up and execute such scheme may exercise, in connection therewith, the powers conferred on Irrigation Officers by sections 6, 7 and 8 and shall be liable to the obligations, imposed upon Irrigation Officers by sections 9 and 35.

CHAPTER III.

FIELD-CHANNELS.

15. Determination of the need for field-channels and their alignment in any area.—(1) The Irrigation Officer on being satisfied that the construction of field-channels in any area is necessary in public interest for supply of water from an irrigation work to lands requiring such supply for purposes of cultivation, shall declare by notification that such field-channels may be constructed after a date to be specified in the notification, not being earlier than thirty days from the date of publication thereof. A copy of such notification shall be sent to the Tahsildar of the area for publication in the villages concerned.

(2) After the date specified in the notification under sub-section (1), the Irrigation Officer shall determine the suitable alignment for the field-channels and shall mark out the land, which in his opinion, it is necessary to occupy for the construction thereof. He shall forthwith publish a notification by affixture on the notice board in his office that so much of such land as is situated within such village or villages has been so marked out and shall send a copy of such notification to the Tahsildar for publication in every village

through which the field-channel is taken and on such lands. He shall also send a copy of such notification to the Deputy Commissioner of every District in which such land is situated.

16. Deputy Commissioner to acquire land.—(1) On receipt of a copy of a notification under section 15, the Deputy Commissioner shall, on being satisfied that such land is required for a field-channel, proceed to acquire and take possession of such land under the provisions of the Land Acquisition Act, 1894, as if a declaration had been issued by the State Goverument for the acquisition thereof under section 6 of that Act and as if the State Government had thereupon directed the Deputy Commissioner to take order for the acquisition of such land under section 7 of the said Act and as if the State Government had issued orders for immediate possession being taken under section 17 of the said Act.

(2) Notwithstanding anything contained in the Land Acquisition Act, 1894, the acquisition of any land for the purpose of constructing a field-channel under section 15 shall be deemed to be for a public purpose and compensation to be awarded shall be—

(*a*) in the case of land wh ch is assessed as wet, one hundred times, and

(*b*) in the case of land which is assessed as dry, two hundred times,

'he land revenue payable in respect of the land acquired.

Explanation I.—For purposes of this sub-section, in the case of land which is assessed as wet, 'land revenue' shall include water rate, where such rate is payable annually in addition to the land revenue.

Explanation II.—In the case of an inam village to which survey and settlement has not been introduced under the Mysore Land Revenue Act, 1964, the amount equal to the land revenue assessment levied on the same extent of similar land in an adjoining unalienated village shall be deemed to be the land revenue of the land for purposes of this sub-section.

17. Such acquired land to remain as property of Government.—On possession of the land being taken, the Irrigation Officer shall fix

the boundary marks in the prescribed manner, and thereupon ownership of such land shall vest in the State Government.

18. Procedure for construction of field-channel.—Any person whose lands would be benefited by the construction of a field-channel on the land vesting in Government under section 17, may either—

(*a*) construct a field-channel with the permission of the Irrigation Officer and subject to such conditions as may be imposed by him, or

(*b*) apply in writing to the Irrigation Officer, stating that he desires the said Irrigation Officer to do all things necessary for constructing such field-channel on his behalf and at his cost, and that he is ready to defray all the expenses necessary for such construction.

19. Construction of field-channel on deposit of estimated cost.—(1) On receipt of an application under clause (b) of section 18, the Irrigation Officer may call upon the applicant to deposit the whole or any part of the expense such officer may consider necessary ; and upon such deposit being made, shall construct the field-channel, and on its completion, shall give to the applicant notice thereof and of any sum payable by him on account of the cost of constructing the field-channel. On such notice being given, such sum shall be due from the applicant to the State Government. On receipt of payment in full of all expenses incurred, the applicant shall have the right to use the field-channel for supply of water to his lands.

(2) In default of payment by the applicant of the sum or any portion of the sum due within the period specified in the notice, the amount due shall be recoverable as an arrear of land revenue.

(3) Where a deposit made under sub-section (1) is in excess of the cost incurred by the Irrigation Officer in constructing the field-channel, the excess amount deposited shall be refunded to the person who made the deposit.

20. Obligations of persons having right to use the field-channels.—(1) Every person having a right to use the field-channel shall be bound—

(*a*) to maintain such field-channel in a fit state of repair for the conveyance of water;

(*b*) to allow the use of it to others or to admit other persons as joint users thereof, on such terms as may be prescribed under the provisions of section 22.

(2) Every user of a field-channel and every person duly authorised under the provisions hereinafter contained to use a field-channel shall, subject to the provisions of Chapter IV, be entitled to have a supply of water by such field-channel on such terms as may be prescribed.

21. Arrangement with user by other person.—Any person desiring to have a supply of water through a field-channel of which he has not acquired the right to use, may apply to the Irrigation Officer for permission to use such field-channel or to be declared a joint user thereof.

22. Irrigation Officer after inquiry may authorise or declare applicant to be joint user.—On receipt of an application under section 21, the Irrigation Officer shall serve a notice on the person having the right to use the field-channel to show cause why such permission should not be granted, or such declaration should not be made, and if no objection is raised, or if any objection raised be found insufficient or invalid, and if the Irrigation Officer is satisfied that there is sufficient water for supply shall either permit the applicant to use the field-channel or declare him to be a joint user thereof on such conditions as to the payment to the person referred to in section 18 of such amount as may appear to the Irrigation Officer to be equitable.

23. Use of land acquired for field-channel for other purposes.—(1) No land acquired under this Act for a field-channel and no land occupied by a field-channel constructed under section 19 shall be used for any other purpose without the previous consent of the Irrigation Officer.

(2) No field-channel, whether constructed under section 19 or otherwise, shall be extended, improved, or altered without the previous consent of the Irrigation Officer. The provisions of sections 15 to 19 shall apply *mutatis mutandis* in respect of such extension, improvement or alteration.

24. If user fails to execute work or to repair field-channel Irrigation Officer may execute the same.—(1) If any user of a field-channel fails to fulfil any obligation imposed upon him by clause (*a*) of sub-section (1) of section 20, the Irrigation Officer may require him, by notice, to execute the necessary repair within a period to be specified in such notice, of not less than seven days, and, in the event of failure may execute the same, and except as hereinafter provided in this section, all expenses incurred in the execution of such repair shall be a sum due by such user to the State Government recoverable as an arrear of land revenue.

(2) Every person other than the person having the right to use the field-channel who uses such field-channel in respect of which any repair has been executed by the Irrigation Officer under this section shall, in the absence of any conditions to the contrary imposed under section 22 at the time such person was authorised to use such field-channel, be liable to pay to the State Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the Irrigation Officer.

25. Settlement of disputes as to mutual rights and liabilities of persons.—(1) Whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the use, construction or maintenance of a field-channel, or as to their respective shares of the expenses of constructing or making such field-channel or as to the amount contributed by them towards such expenses, or as to failure on the part of any person having a right to the use of the field-channel to contribute his share, the Irrigation Officer, either on the application of any person interested in such dispute or otherwise, shall, after making such inquiry as may be prescribed, decide the matter in dispute.

(2) Any person aggrieved by the decision of the Irrigation Officer may within thirty days of the date of the decision, appeal to the Deputy Commissioner whose order in the matter shall be final and conclusive until set aside by a decree of a civil court.

26. Consequence of failure to construct or apply for construction of a field-channel.—(1) If after any land has been acquired under section 16 and has become vested in the State Government under section 17, the persons interested fail to construct or to apply for construction

of a field-channel under section 18 within the prescribed period, the Irrigation Officer shall declare by notification that such construction will be made by the State Government after a date to be specified in the notification:

Provided that before making such declaration, the Irrigation Officer shall publish a notice in the prescribed manner for the information of all persons concerned with the lands vesting in the State Government under section 17, that if they do not take action under section 18 within the prescribed period, a declaration would be made under this section.

(2) After the date specified in such notification, the Irrigation Officer shall construct the field-channels necessary in the area.

(3) Where any field-channel is constructed under this section, the holders and occupiers of the lands benefited by such field channels shall be liable to pay to the State Government, the cost incurred for such construction. Such amount shall be recoverable as an arrear of land revenue.

Explanation.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided that such non-enjoyment is due solely to the action or inaction on the part of the person or persons interested in such land.

CHAPTER IV.

Regulation of Irrigation.

27. Regulation of water supply from irrigation works.—An Irrigation Officer duly empowered by the State Government by a notification in respect of any irrigation work or class of irrigation works may, after such inquiry as he deems fit, and after consultation with a committee appointed by the State Government consisting of such number of official and non-official members as may be prescribed, regulate in respect of any irrigation work for each year or for a specified term of years at a time, as circumstances may require,—

(*i*) the time for letting out water for irrigation;

(*ii*) the period of supply;

(*iii*) the quantity of supply ; and

(*iv*) the areas to be supplied at different times.

Explanation.—A land shall be deemed to have been supplied with water if water is made available for irrigation of such land.

28. Application for permission to use water from an irrigation work.—(1) Any person desiring to have a supply of water from an irrigation work for irrigating a land not assessed as a wet land or not included in any area to which supply of water is regulated under section 27, shall make a written application to that effect to the Irrigation Officer. Subject to any general or special order made by the State Government determining the extent of lands for which water can be made available from such irrigation work, such officer may, if in his opinion such supply can be made without detriment to the supply of water to lands assessed as wet lands or included in any area to which supply of water is regulated under section 27, order the supply of water and for such period not exceeding six years subject to such conditions as may be specified in such order.

(2) If after a period of six successive years of supply of water made to any land referred to in sub-section (1), the holder of such land applies for the supply of water being made permanent, such application, with the opinion of the Irrigation Officer, shall be forwarded to the Deputy Commissioner of the district. The Deputy Commissioner of the district shall then take steps in accordance with law to convert the land into wet or garden, or to include the land in the area to which supply of water is regulated by section 27.

(3) The water rate leviable for the use of water for temporary cultivation under sub-sections (1) and (2) shall be twice the water rate when such rate is levied separately on the land or in other cases twice the difference between dry assessment of the land and the wet assessment of the neighbouring wet lands.

(4) With the sanction of, and subject to such conditions, payments, and restrictions, as may be imposed by the State Government or such officer as may be authorised by the State Government in this behalf, the Irrigation Officer, may, without detriment to the supply of water to lands assessed as wet lands

included in any area to which supply of water is regulated under section 27, give permission for water to be taken from an irrigation work, for purposes other than those of agriculture.

(5) If any person uses water from an irrigation work without obtaining the permission required under this section, he shall in addition to any penalty he incurs under this Act for such unauthorised use of water be liable to pay water rate at such rate as may be determined by the prescribed officer not being less than ten times and not exceeding thirty times the rate he would otherwise have been required to pay, had he applied for and obtained the permission.

29. Stoppage of water supply.—The supply of water to any field-channel or to any person who is entitled to such supply shall not be stopped, except,—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the competent authority;

(*b*) whenever and so long as any field-channel by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water thereof;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*e*) within the periods fixed from time to time by the Irrigation Officer of which due notice shall be given;

(*f*) whenever there is diminution in the supply of water in the irrigation work due to any natural or seasonal causes and so long as it is necessary to do so.

30. Supply of water for irrigation of one or more crops.—When water from an irrigation work is supplied for the irrigation of one or more crops only, the right to use such water shall be deemed to continue only until such crop or crops shall come into maturity, and to apply only to such crop or crops.

31. Regulation of cultivation on wet lands.—(1) Subject to the provisions of section 32, and subject to such directions as may be issued from time to time, the Irrigation Officer may in any year, having regard to the quantity of water available in any irrigation work under his control determine, by order published in the prescribed manner and within the time prescribed, the areas or lands or portions of the wet lands in the irrigable area of such irrigation work, to be cultivated with paddy, sugarcane, or any perennial crop or intermittent irrigated dry crops or with dry or semi-dry crops and regulate the supply of water for irrigation accordingly.

(2) If, in accordance with a decision of the Irrigation Officer under sub-section (1), any land entitled to supply of water under the irrigation work is not supplied with water, the holder of such land shall be liable to pay only the dry assessment of such land.

(3) From the order of the Irrigation Officer under this section, an appeal shall lie within fifteen days from the date of publication of the said order, to the Deputy Commissioner of the district.

32. Power to prescribe the kind of crop to be grown under the irrigation area and the period of sowing such crop.—(1) Whenever the State Government is satisfied that for the better cultivation of lands and due preservation of the water-resources of an irrigation work, it is expedient and desirable in public interests to regulate the kind of crop that should be grown on lands under such irrigation work and the period of sowing such kinds of crop, it may, by notification, make a declaration to that effect.

(2) On the making of a declaration under sub-section (1), the Irrigation Officer, after consultation with the committee appointed under section 27 and with the approval of the Deputy Commissioner, may specify by notification published in such manner as may be prescribed, the kinds of crop that shall be grown on any land under such irrigation work and the period of sowing and planting such crops.

(3) On the publication of a notification under sub-section (2), no person shall grow or allow any crop other than the crops specified in such notification to be grown on any land under such irrigation work and no person shall sow or plant or allow the sowing or planting of crop at any time other than during the period specified in such notification.

(4) In all cases in which the person who has sown or grown any unauthorised crop or allowed any land to be grown or sown with such unauthorised crop cannot be found, the holder of the land in addition to such other person concerned, shall be liable for contravening the provisions of this section :

Provided that if no water is utilised either directly or indirectly from the irrigation work for growing any crop, the provisions of sub-sections (3) and (4) shall not be applicable.

CHAPTER V.

AWARD OF COMPENSATION.

33. Compensation for damage caused consequent on the exercise of powers conferred by this Act.—Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained :

Provided that no compensation shall be so awarded in respect of any damage arising from,—

(*a*) deterioration of climate or soil ; or

(*b*) stoppage of navigation or of the means of floating timber or of watering cattle ; or

(*c*) stoppage or diminution of the supply of water in consequence of the exercise of the power conferred by section 5, if no use has been made of such supply within the five years next before the date of the issue of the notification under section 5 ; or

(*d*) failure or stoppage of any water in a channel or irrigation work where such failure or stoppage is due to,—

(i) any cause beyond the control of the authority in charge of the irrigation work ;

(ii) the execution of any repairs, alterations or additions to the channel or irrigation work ;

(iii) any measures considered necessary by the Irrigation Officer, for regulating the proper flow of water in the channel or for maintaining the established course of irrigation ; or

(iv) circumstances mentioned under clauses (*a*) to (*f*) of section 29:

Provided further that any person who suffers loss from any stoppage or diminution of water supply to his lands due to any of the causes named in clause (*d*) of the preceding proviso shall be entitled to such remission of the water rate payable by him as may be authorised by the State Government.

34. Limitation of claims.—No claim for compensation under this Act for any damage shall be entertained after the expiration of one year from the time when the damage complained of commenced, provided that the Deputy Commissioner on sufficient cause shown to his satisfaction by the claimant for not making the claim within such period, may condone the delay, and entertain the claim.

35. Compensation for damage caused by entry on land, etc.—(1) In every case of entry upon any land or building or the utilisation of materials under sections 5, 6, 7 and 8, the Irrigation Officer or the person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property and the value of the materials taken or utilised and, within one month from the date of such entry, compensation shall be tendered by the Irrigation Officer to the land-holder or owner of the property, as the case may be.

(2) If such tender is not accepted within a week of such tender, the Irrigation Officer shall forthwith refer the matter to the Deputy Commissioner for the purpose of determining the amount of compensation.

36. Claims to be preferred to the Deputy Commissioner.—(1) All claims for compensation under this Act other than claims of the nature provided for in section 35 shall be made to the Deputy Commissioner of the district in which such claim or part of it arises.

(2) The Deputy Commissioner shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded. In determining such amount, the Deputy Commissioner shall, except in cases of acquisition under section 16, be guided by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894, as far as possible:

Provided that regard shall be had to the diminution in the market value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act:

Provided further that no order determining the amount of compensation shall be made by the Deputy Commissioner under this section without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.

37. Appeal.—Any person aggrieved by the order of the Deputy Commissioner under section 35 or section 36 may, within ninety days from the date of communication of the order, prefer an appeal to the Mysore Revenue Appellate Tribunal.

38. Compensation when due and interest payable.—All sums of money payable for compensation awarded under this Chapter shall become due three months after the final award is made, and simple interest at the rate of four per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

39. Abatement of revenue demand on interruption of water supply.—If compensation is awarded under section 36 on account of a stoppage or diminution of supply of water to any land paying land revenue to the State Government and the amount of the land revenue payable on account of such land has been fixed with reference to the water advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of land revenue payable to such extent as shall be determined by the Deputy Commissioner of the district.

CHAPTER VI

OF OBTAINING LABOUR IN EMERGENCIES.

40. Requisition of labour for urgent works or repairs, etc.—(1) Whenever it appears to an Irrigation Officer or in his absence to the Tahsildar that—

(*a*) (i) unless some work or repair is immediately executed an irrigation work would sustain such serious damage as to cause sudden and extensive public injury, or

(ii) unless some clearance of an irrigation work which is necessary in order to maintain the established course of irrigation or drainage is immediately executed, serious public loss would occur, and

(*b*) persons necessary for the proper execution of such work, repair or clearance cannot be obtained in the ordinary manner in time to prevent such injury or loss,

it shall be lawful for such officer to either himself call upon or to require the patel of the village or villages in the vicinity to call upon all or any of the able bodied persons who reside or hold land in or near the locality where such work, repair or clearance has to be executed to assist in the execution of the same as such officer or other person authorised by him in this behalf may direct.

(2) In calling upon the able bodied persons to assist the execution of any work under sub-section (1), no discrimination shall be made on grounds of religion, race, caste or class or of any of them.

(3) Every person so requisitioned shall be deemed to be a public servant within the meaning of the Indian Penal Code.

(4) An order made under sub-section (1), shall be immediately reported to the Deputy Commissioner and the Canal Officer.

41 Payment to persons requisitioned.—All persons complying with the requisition under section 40 shall, as soon as may be reasonably practicable, and in any case within fifteen days from the date of such compliance, be paid by the Canal Officer or the Tahsildar, as the case may be, for the work done by them at fifty per cent in excess of the rates payable for the time being prescribed by the

competent authority of the Public Works Department to persons attending to similar work:

Provided that for work done at night, payment shall be made at double such rates.

42. Appeals against order under section 41.—Any person who does not accept the amount tendered in payment under section 41 may appeal, within thirty days from the date of such tender, to the Deputy Commissioner whose decision shall be final.

CHAPTER VII

MAINTENANCE OF IRRIGATION WORKS.

43. Power to take over irrigation works for maintenance by Government.—If the State Government considers that in the interest of the proper irrigation of lands under any irrigation work maintained by any person or body of persons, the work of maintenance in a fit state of repair of such irrigation work should be undertaken by the State Government, and the cost of such maintenance or any part thereof recovered from the holders of lands benefited by such irrigation work, the State Government may, by notification, make a declaration tc that effect, and thereafter the State Government shall take over and maintain in a fit state of repair such irrigation work:

Provided that no artificial reservoir owned by any land holder which is actually used for the purpose of irrigation by such land holder shall be notified under this section except,

(i) on the request of land holder; or

(ii) if in the opinion of the State Government such notification is necessary in the public interest:

Provided further that where a notification is issued in accordance with clause (ii) of the preceding proviso, the land holder concerned shall be paid such compensation for his rights as may be awarded by the Deputy Commissioner of the district after such enquiry as may be prescribed.

44. Levy of maintenance cess.—(1) The State Government shall levy a maintenance cess at rupees four per acre per annum on all lands in the area benefited by any irrigation work maintained by the State Government, the Tungabhadra Board or a Taluk Development Board or other authority :

Provided that where water is not made available for the use of any land benefited by an irrigation work for a period of not less than two consecutive years, the maintenance cess shall not be payable in respect of such land during the said period :

Provided further that where the maintenance cess has been paid for any year in respect of which such cess is not payable under the preceding proviso the amount so paid shall be refunded or adjusted towards the liability to pay the cess in respect of any later year in which water is made available for the use of such land.

(2) On and from the date of levy of the maintenance cess under sub-section (1), the irrigation cess, if any, levied as a separate charge on the lands liable to pay maintenance cess shall cease to be levied.

(3) The maintenance cess shall be a tax on the land in respect of which it is payable, and the provisions of the Mysore Land Revenue Act, 1964 (Mysore Act 12 of 1964) and the rules thereunder shall apply to the payment and recovery of the maintenance cess as they apply to the payment and recovery of the land revenue due upon the land in respect of which the maintenance cess is payable.

45. Payment to Tungabhadra Board, etc.—Where under any law for the time being in force the duty of maintenance of any irrigation work devolves on the Tungabhadra Board, a Taluk Development Board or other authority, an amount equal to the amount collected as maintenance cess on lands benefited by such irrigation work during every year shall be paid to the Tungabhadra Board, the Taluk Development Board or other authority concerned, in such manner as may be prescribed.

CHAPTER VIII.

SAFEGUARDS FOR IRRIGATION WORKS.

46. Limitation in respect of irrigation works.—Except as may be prescribed, no person other than the Irrigation Officer shall,—

(*a*) interfere with or divert the course of a natural stream; or

(*b*) construct any earthern or masonry bund or weir on any channel or stream, flowing above or below any field channel.

47. Interference with the functioning of cross drainage works.—No person, except with the written permission of the Irrigation Officer, shall obstruct the proper functioning of the various cross drainage works, such as culverts, aqueducts, super-passages, syphons, weirs and allied works constructed for the safety of the canals or channels.

48. Obligations of owners in respect of works affecting safety of canals:—(1) Every owner whose tank, well, pond, spring pond, talaparige or other reservoir is situated above any irrigation work, shall maintain the bunds and surplussing arrangements of such tank, well, pond, spring pond, talaparige or reservoir in a safe and efficient condition.

(2) If, in the opinion of the Irrigation Officer, such bunds or surplussing arrangements of the works referred to in sub-section (1) are not in a fit condition and are likely to endanger the irrigation works below, then the owner concerned shall be served with a notice to bring such bunds or surplussing arrangements to a reasonably fit condition, in such manner and within such time as may be specified in the notice.

(3) If the said owner fails to comply within the time specified or does repairs which in the opinion of the Irrigation Officer are unsatisfactory, the Irrigation Officer may carry out the necessary repairs and the cost thereof shall be recovered from the said owner as an arrear of land revenue.

(4) From any order of the Irrigation Officer under this section an appeal shall lie within one month from the date of communication of the order, to the Deputy Commissioner, whose decision thereon shall be final.

49. Mining or quarrying near irrigation works.—No person shall conduct mining or quarrying operations requiring the use of explosives within a distance of one kilometre from the boundaries of an irrigation work without the written permission of the Irrigation Officer.

50. Excavation of wells near irrigation works.—Save as provided in sub-section (2) of section 4, no new well shall be excavated within such distance as may be specified by the State Government from time to time, from the boundaries of an irrigation work, without the written permission of the Irrigation Officer.

51. Operation of sluice gates, etc.—No person other than the Irrigation Officer or other person duly empowered by the Irrigation Officer in this behalf, shall have the right to operate a sluice gate, regulator or flood gate of a reservoir, canal or channel.

52. Fishing and plying of boats, etc.—No person shall have the right to fish or ply any vessel in a reservoir or tank or across or along a canal or channel maintained or controlled by the Government without the permission in writing of the State Government or of such officer as may be empowered in this behalf by the State Government, and except under such terms and conditions and subject to payment of such fees as may be prescribed :

Provided that no permission for fishing in any tank with an achkat of not more than five hundred acres shall be granted by any officer empowered under this section except with the concurrence of the Irrigation Officer.

53. Letting out of water from canal prohibited.—No person other than the Irrigation Officer or any officer duly empowered in this behalf shall let out water from a canal or channel by cutting the bund, constructing a sluice or outlet or any other similar contrivance.

54. Depositing produce of Mines in or near channels prohibited.—No person shall deposit any produce of mines in or near any channel or other work, whether natural or artificial, through which rain or other water flows into any irrigation work.

CHAPTER IX

PENALTIES AND PROCEDURE.

55. Offences under the Act.—Whoever voluntarily and without proper authority —

(*i*) damages, alters, enlarges or obstructs any irrigation work ;

(*ii*) interferes with, increases, or diminishes the supply of water in, or the flow of water from, through, over, or under any irrigation work or by any means raises or lowers the level of the water in any irrigation work;

(*iii*) opens, shuts or obstructs or attempts to open, shut or obstruct, any sluice or outlet or any other similar contrivance in any irrigation work;

(*iv*) corrupts or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used;

(*v*) destroys, defaces or moves any land-mark or level-mark or water-gauge fixed by the authority of a public servant;

(*vi*) destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any irrigation work;

(*vii*) causes any animal or vehicle to pass on or across any of the works, banks, canals or channels of an irrigation work contrary to rules made under section 71 after he has been required to desist therefrom;

(*viii*) causes or permits any animal to graze or be tethered upon the bank of any irrigation work;

(*ix*) removes or injures any tree, bush, grass or other vegetation intended for the protection of any irrigation work;

(*x*) puts up a dam across or otherwise obstructs the free course of water the right to which vests in the Government;

(*xi*) being responsible for the maintenance of the field channel or using the field channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;

(*xii*) prevents or interferes with the lawful use of a field channel by any person authorised to use the same, or declared to be a joint user thereof under sections 20 and 22;

(*xiii*) contravenes any provision of this Act;

(*xiv*) contravenes any rule made under section 71, the contravention whereof is declared in the rules made under that section to be an offence punishable under this section

shall, on conviction, be punished for offences under clauses (*vi*), (*x*), (*xi*) and (*xii*) with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both, and for offences under any other clause with imprisonment for a term which may extend to two months, or with fine which may extend to five hundred rupees or with both :

Provided that for a second or subsequent offence under clauses *vii*) and (*viii*) such fine shall not be less than fifty rupees and under the other clauses such fine shall not be less than two hundred and fifty rupees :

Provided further that in the case of a continuing offence a daily fine not exceeding fifty rupees during the period of the continuance of the offence shall also be imposed.

56. Persons convicted under section 55 liable to repair the damage, etc.—When any person is convicted of an offence under section 55, the Magistrate may order that the said person shall remove the obstruction or repair the damage or replace or repair the land mark, level mark, water-gauge or apparatus in respect of which the conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, the Irrigation Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person as an arrear of land revenue.

57. Abetment.—Whoever abets any offence punishable under this Act, or attempts to commit any such offence shall be punished with the punishment provided in this Act for such offence.

58. Punishment for vexatious exercise of power.—(1) If any officer or other person duly empowered to take action under this Act, exercises without reasonable cause for the purpose of vexation or with malicious intention any power under this Act, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) No prosecution under sub-section (1) shall be entertained except on a complaint by an officer authorised by the State Government in that behalf.

59. Punishment under other laws not barred.—Nothing contained in this Act shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Act.

60. Offences under this Act to be cognizable.— All offences under this Act except offences under clauses (*vii*) and (*viii*) of section 55, shall be cognizable.

61. Power to remove obstruction or damage to work.—Any person in charge of or employed upon any irrigation work, may remove from the land or buildings belonging thereto, or may take into custody without a warrant, and without unnecessary delay make over to a police officer or in the absence of a police officer take or cause to be taken in custody to the nearest police station, any person who within his view—

(*a*) wilfully damages, alters, enlarges or obstructs any irrigation work;

(*b*) without proper authority interferes with the supply or flow of water, in or from any irrigation work so as to endanger, damage or render less useful such irrigation work.

62. Payment of fine as reward to informant.—Whenever any person is fined for an offence under this Act, the court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, may direct that the whole or any part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine is ordered to be paid as a reward by a court whose decision is subject to appeal or revision, the amount ordered to be so paid, shall not be paid until the period prescribed for presentation of the appeal has elapsed, or if an appeal is preferred till after the decision of the appeal.

CHAPTER X.

MISCELLANEOUS.

63. Recovery of cost of repairing damage when the offender is unascertainable.—When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Deputy Commission may deem sufficient, be ascertained or identified, the Deputy Commissioner may, on a requisition from the Irrigation Officer, after giving not less than one month's notice to the holders and occupiers of all lands benefited thereby, and after hearing their representations, if any, recover from them, as an arrear of land revenue, in such proportion as he thinks fit, the cost of repairing such damage, or of removing such alteration, or obstruction.

64. Liability when person using water unauthorisedly cannot be found.—(1) If water supplied through a field channel is used in any unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be found after such enquiry as the Irrigation Officer may deem sufficient, the Irrigation Officer after giving not less than one month's notice to the holders and occupiers of all lands benefited thereby and after hearing their representaions, if any, make an order for the recovery of such charges as may be prescribed for such use from such holders and occupiers in such proportion as he may find just.

(2) All charges for the unauthorised use of water determined under sub-section (1) shall be recoverable as an arrear of land revenue.

65. Appeals against orders under the Act.—Any person aggrieved by an order of an Irrigation Officer under section 12 or 24 may within thirty days from the date of communication of the order, prefer an appeal to the Deputy Commissioner of the district.

66. Power of revision.—The Divisional Commissioner may call for and examine the records of the proceedings under this Act of a Deputy Commissioner or an Irrigation Officer or any officer subordinate to the Deputy Commissioner or the Irrigation Officer for the purpose of satisfying himself as to the correctness, legality or propriety

of any decision or order passed and the regularity of the proceedings of such officer.

When on examination of the records of any case, the Divisional ommissioner considers that any order or decision of such officer should be revised, such order or decision may be revised or altered and the Divisional Commissioner may pass such other orders as he may deem just.

67. Power to summon and examine witnesses.—Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on a civil court, by the Code of Civil Procedure, 1908, and every such enquiry shall be deemed to be a judicial proceeding for purposes of sections 193 and 224 of the Indian Penal Code.

68. Service of notices.—Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the o cer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named.

hen such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the service of the notice may be made by sending a copy of such notice by registered post to such person at his usual place of residence.

69. Bar of certain proceedings, etc.—(1) No suit, prosecution or other proceeding shall lie against any officer or servant of the State Government, for any act done or purporting to be done under this Act, without the previous sanction of the State Government.

(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by or under this Act.

(3) No suit shall be instituted against the State Government n respect of any act done unless the suit is instituted within six months from the date of the act complained of.

(4) In the case of an intended suit against any officer or servant of the State Government under sub-section (1), the person intending to sue shall be bound to give the officer or servant, as the case may be, one month's notice at least of the intended suit with sufficient description of the cause of action, failing which such suit shall be dismissed.

(5) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit instituted in respect of any matter to which this Act applies.

70. Offences by companies.—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals, and

(*b*) "director" in relation to a firm means a partner in the firm.

71. Power to make rules.—(1) The State Government may, after previous publication, by notification, make rules for the purpose of carrying out the provisions of this Act, and such rules may be general for all irrigation works or may be special for one or more irrigation works, as may be specified in such rules.

(2) Without prejudice to the generality of the foregoing power, such rules may be made in respect of the following matters :—

(*a*) the proceedings of any officer who under any provision of this Act is required or empowered to take action in any matter;

(*b*) the amount of and charges to be made under this Act;

(*c*) the economic use of water supplied from any irrigation work;

(*d*) the manner in which and the officer by whom complaints, as to the inadequacy of means of crossing shall be investigated under section 10 ;

(*e*) regulating the period of opening and closing of channels distributaries and sub-distributaries of irrigation works.

(3) All rules made under this Act shall, subject to any modification made under sub-section (4), have effect as if enacted in this Act.

(4) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

72. Repeal and savings.—(1) The Mysore Irrigation Act, 1932 Mysore Act I of 1932), the Hyderabad Irrigation Act, 1357F (Hyderabad Act 24 of 1357F), the Bombay Irrigation Act, 1879 (Bombay ct 7 of 1879), the Madras Irrigation Tanks (Improvement) Act, 1949 Madras Act XIX of 1949), and the Madras Irrigation Works Repairs, Improvement and Construction) Act, 1943 (Madras Act VIII of 1943), are hereby repealed :

Provided that the provisions of section 6 of the Mysore General lauses Act, 1899 (Mysore Act 3 of 1899), shall be applicable in respect of the said repeal and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

(2) The Mysore Tank Panchayat Act, 1911 (Mysore Act 1 of 1911), is hereby repealed:

Provided that the provisions of section 6 of the Mysore General Clauses Act, 1899 (Mysore Act 3 of 1899), shall be applicable in respect of the repeal of the said enactment:

Provided further that the properties, rights and liabilities of a Tank Panchayat constituted under the repealed enactment shall vest in the Village Panchayat constituted under the Mysore Village Panchayats and Local Boards Act, 1959, and having jurisdiction over the area, and the moneys at the credit of the tank fund under the control of such Tank Panchayat shall stand transferred to the Panchayat Fund of the said Village Panchayat.

By Order and in the name of the Governor of Mysore,

R. SANJEEVALU, *Secretary*.

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